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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 23 January 2004 from the Permanent Mission of El Salvador to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of El Salvador to the United Nations presents its compliments to the Chairman of the Committee and, with regard to the note dated 7 July 2003, has the honour to transmit herewith the report of the Government of El Salvador pursuant to paragraph 6 of Security Council resolution 1455 (2003) (see annex).

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Annex to the note verbale dated 23 January 2004 from the Permanent Mission of El Salvador to the United Nations addressed to the Chairman of the Committee

Report of El Salvador pursuant to Security Council resolution 1455 (2003)

I. Introduction

1. **Please provide a description of activities, if any, by Osama bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.**

The Government of El Salvador is not aware of any past or current activities by Osama bin Laden, Al-Qaida, the Taliban and their associates in the country.

II. Consolidated list

2. **How has the 1267 Committee's list been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?**

The Committee's list has been incorporated into the country's administrative structure as follows:

(a) Under the law, the Financial Investigation Unit (UIF) of the Office of the Attorney-General of the Republic, with the coordination of the supervisory agencies of the Salvadoran financial system, is the body that is responsible for verifying within the regulated financial system whether the persons on the list have carried out transactions or own assets in that system. Thus far, it has not been determined that such assets exist.

(b) The list has been entered into the database of the General Directorate of Migration and Alien Affairs on migration restrictions.

(c) The list has also been made available to the National Civil Police.

3. **Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the list? If so, please describe these problems.**

The names should be accompanied by more information on the exact identity of those concerned, such as passport numbers, dates of birth, aliases or others.

The list provides very scanty information. More information should be provided, including on the profiles, backgrounds and description of the persons in order to make it easier to locate them.

4. **Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.**

The competent authorities have not identified inside our territory any of the persons or entities on the List.

5. **Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the**

Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

The country's competent authorities have not found links to individuals or entities associated with Osama bin Laden, the Taliban or Al-Qaida that have not been included in the List.

6. **Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.**

There are no records in that regard.

7. **Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.**

None of the listed persons has been a national or resident of El Salvador.

8. **According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.**

In El Salvador, as indicated in the preceding paragraphs of this report, the authorities concerned in the country have not detected the presence of members of Al-Qaida inside our national territory and much less the existence of Al-Qaida training camps in the country.

III. Financial and economic assets freeze

Under the sanctions regime (paragraph 4 (b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets, or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

***Note*: For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible or intangible, movable or immovable.**

9. **Please describe briefly:**

- **The domestic legal basis to implement the asset freeze required by the resolutions above;**

Articles 180 et seq. of the Code of Criminal Procedure and Security Council resolution 1373 (2001).

However, it must be made clear that the institutions under this legal obligation cannot on their own freeze bank accounts or funds; they may do so only on the

express written instructions of the Attorney-General of the Republic, through UIF, or through the competent court.

Lastly, the obligation of financial institutions to report any suspicious operation does not flow specifically from special domestic legislation against terrorist acts, but from the Money Laundering Act. In particular, it derives from the guidelines of UIF for the prevention of money-laundering, in implementation of the eight special recommendations against terrorism made by the Financial Action Task Force on Money Laundering (FATF), which expressly provide as follows: "... Special provision. Institutions shall report to the Financial Investigation Unit (UIF) of the Office of the Attorney-General of the Republic and to the relevant supervisory body, as a suspicious or irregular operation or transaction, regardless of the amount involved, any operation, transaction or account concluded or opened by clients or users about whom there is evidence or information obtained by any means linking or associating them directly or indirectly with any of the criminal activities referred to in article 6 of the Money Laundering Act, and in particular to local or international terrorist acts ...".

- **Any impediments under your domestic law in this context and steps taken to address them.**

There are no impediments.

10. **Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.**

According to article 3 of the Money Laundering Act, the Financial Investigation Unit of the Office of the Attorney-General of the Republic is the authority responsible for investigating the crime of money-laundering and related crimes such as terrorism.

Pursuant to that mandate, and on the basis of the lists of the Security Council, it carried out appropriate investigations to determine whether the individuals or entities on the lists have any ties or business with the national financial system. Those investigations found that such individuals neither carried out transactions nor have assets in the country's financial system.

11. **Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.**

The duty of financial institutions to report any suspicious operation is specifically provided for under the Money Laundering Act: "Art. 9. — Institutions are required to report to UIF in writing or by any other electronic means within a period of three working days any operations or multiple transaction performed by a single client that exceeds in one day or within a period of one month 500,000 colones or the equivalent in foreign currency, in accordance with the fluctuations of

the national currency, provided there is sufficient reason to consider such operations or transactions irregular or when UIF so requires ... Art.10 — Institutions shall have the following obligations in addition to those set out in the foregoing article: ... III Mandatory, prompt and full reporting to the Office of the Attorney-General of the Republic, through UIF and the relevant supervisory body, on any relevant information on the handling of funds, the amount and nature of which bear no relation to the economic activity of their clients or on client transactions which, by reason of their amounts, number, complexity, characteristics or special circumstances, are inconsistent with the customary or normal pattern of transactions of that type; and in respect of which it might reasonably be concluded that an attempt is being made to use the financial institution or that the financial institution is in fact being used to transfer, process, benefit from or invest money or the proceeds of criminal activities ...". They have a special obligation under the UIF guidelines for the prevention of money-laundering, which expressly provide as follows: "... Special provision. Institutions shall report to the Financial Investigation Unit of the Office of the Attorney-General of the Republic and to the relevant supervisory body, as a suspicious or irregular operation or transaction, irrespective of the amount involved, any operation, transaction or account concluded or opened by clients or users about whom there is evidence or information obtained by any means linking or associating them directly or indirectly with any of the criminal activities referred to in article 6 of the Money Laundering Act, and in particular to local or international terrorist acts ... Furthermore, financial institutions shall give prior notice to UIF about any decision to close or cancel the accounts of clients suspected of being directly or indirectly associated with or involved in the crimes referred to in the previous paragraph, so that UIF can take prompt action to secure evidence and thus impose precautionary measures and/or enable the Office of the Public Prosecutor to initiate criminal proceedings.

Requirements of due diligence (Articles 10 et seq. of the Money Laundering Act):

"Art.10. — Institutions shall have the following obligations in addition to those set out in the foregoing article:

(a) Clearly identify, exercising due diligence, any customers requiring their services as well as any other natural or legal person on whose behalf they may be acting;

(b) Record and keep documentation on transactions for a period of five years, starting from the date of completion of each transaction;

(c) Provide their staff with training on money-laundering processes or techniques so that they can recognize abnormal or suspicious situations;

(d) Establish internal oversight mechanisms to verify compliance with the provisions of the Act;

(e) Under the provisions of article 4, paragraph 4 of this Act, banks, financial institutions, exchange houses and stock exchanges shall adopt policies, rules and guidelines of conduct to be observed by their administrators, managers and staff, consisting of:

(i) Familiarizing themselves with the economic activities of their clients, the volume, frequency and basic characteristics of the

transactions that they normally carry out and, in particular, the activities of those who make any kinds of demand and term deposits, operate savings accounts, deposit assets in trust directly or on behalf of third parties, or make deposits into safe deposit boxes;

(ii) Establishing that the volume, value and movement of funds of their clients are consistent with those clients' economic activities;

(iii) Making a prompt and full report to the Office of the Attorney-General of the Republic, through UIF and the relevant supervisory body, on any relevant information on the management of funds, the amount or nature of which bear no relation to the economic activities of their clients, or on client transactions which, by reason of their amounts, number, complexity, characteristics or special circumstances, are inconsistent with the habitual or normal pattern of transactions of that type; and in respect of which it might reasonably be concluded that an attempt is being made to use the financial institution or that the financial institution is in fact being used to transfer, process, benefit from or invest money or the proceeds of criminal activities.

Art. 11. — Institutions shall keep records listing the names of their clients. They shall not keep anonymous accounts or accounts bearing incorrect or fictitious names ...

Art. 12. — Institutions shall maintain for a period of at least five years necessary records of both national and international transactions that can be used to promptly respond to requests for information on money-laundering from the relevant oversight bodies of the Office of the Attorney-General of the Republic and the relevant courts. Such records shall be used to reconstruct each transaction in order to provide, where necessary, proof of criminal conduct ...

Art. 13. — Institutions shall monitor transactions performed by their clients that exceed the amounts and conditions stipulated under article 9, paragraph 1, of this Act ... In order to carry out such monitoring activities, the institutions shall prepare a form listing relevant data to identify their clients ... Institutions shall submit such forms to the relevant oversight or supervisory bodies, if they consider a transaction to be suspicious, and simultaneously transmit copies of the reports submitted under this article to UIF, as required under this Act or under this article ...

Art. 14. — Institutions shall designate officials responsible for maintaining and updating the lists and forms referred to in this Act ... All the lists and reports required by this Act may be maintained and transmitted in hard copy or electronically ...

Art. 15. — Failure of the institutions to comply with the above-mentioned obligations, shall be punished in accordance with the regulations of the oversight or supervisory bodies without prejudice to any criminal liability, ..."

12. **Resolution 1455 (2003) calls on Member States to provide a "comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this**

resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2000) and 1390 (2002).

The competent national authorities have not frozen any funds of listed individuals or entities thus far.

13. **Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen because they were linked to Osama bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.**

The competent national authorities have thus far not frozen any funds of listed individuals and entities, as no account in the name of listed individuals and entities has come to their attention.

14. **Pursuant to resolutions 1455 (2003), 1390 (2002), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country, to control the movements of such funds or assets to designated individuals and entities.**

El Salvador has not enacted legislation to implement the provisions of resolutions 1455 (2003), 1390 (2002), 1333 (2000) and 1267 (1999) on the financing of terrorism.

However, draft legislation now being elaborated on the prevention and suppression and, in particular, the financing of terrorism adopts international standards in this area, establishes the relevant investigation and financial analysis mechanisms and confers specific powers on the competent national authorities.

IV. Travel ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2 (b) of resolution 1390 (2002)).

15. **Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.**

A listed individual found in Salvadoran territory would be immediately detained and questioned, and the necessary arrangements would be made to fulfil the State's commitments with regard to extradition.

16. **Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.**

Yes.

17. **How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?**

An updated list is transmitted as often as information is received by the General Directorate of Migration and Alien Affairs.

18. **Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.**

No.

19. **Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?**

The General Directorate of the Foreign Service in the Ministry of Foreign Affairs has transmitted the lists to all the consulates of El Salvador.

V. Arms embargo

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories, of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2 (c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

El Salvador has taken the necessary measures outlined in resolution 1390 (2002) by distributing the Security Council List of international terrorists to the Centre for Police Intelligence, the Division of Arms and Explosives of the National Civil Police and the Directorate of Logistics within the Ministry of National Defence for consultation by the import department whenever applications for special permits to import arms and ammunition are received. Thus far, there have been no reports of arms, ammunition and related materiel being supplied, sold or transferred to any listed individual or entity. Special permits for importing arms, ammunition and related materiel must be verified against the Security Council List.

20. **What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export controls do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?**

In accordance with the Act on the Control and Regulation of Arms, Ammunition, Explosives and Related Items and its implementing regulations, the Division of Arms and Explosives is responsible for storing all arms, ammunition, explosives and similar items entering our country (article 52 of the Act and 70 of the regulations). The Ministry of National Defence shall designate depots for that purpose (article 59 of the regulations). The same law sets out the Ministry of National Defence requirements the for the use or sale of arms and ammunition by individuals or legal entities (articles 16, 17, 23, 24, 26, 27, 28, 31, 33, 34, 37 and 58 of the Act). There is also extensive coordination between the Ministry of National

Defence and the National Civil Police (articles 2, 11, 12, 13, 14 and 15 of the Act). Thus far, we have no knowledge of arms and ammunition having been supplied, sold or transferred to any listed individual or entity. Each application for a special permit to import arms and ammunition is verified against the Security Council List. As El Salvador does not have the technology to manufacture weapons, it does not export them.

21. **What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?**

The Penal Code of El Salvador is general in nature; the violation of the embargo is not characterized as a crime, as it is covered by the criminalization of other acts in articles 343, 344, 345, 346, 346B, 347, 262B, 267 and 268.

22. **Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.**

The Security Council List is incorporated in the database of the Directorate of Logistics within the Ministry of Defence and is consulted prior to authorizing special permits to import arms and ammunition.

The requirements for issuing special import permits are:

Article 16. — Individuals or legal entities engaged in the sale of arms and ammunition shall satisfy the following requirements:

(a) Submit an application to the Ministry of National Defence, containing the first and last names, age, civil status, nationality, profession or trade, personal identity card No., correct residential address and place of habitual abode;

(b) Submit an original and photocopy of personal identity document, or a certified photocopy, indicating category and type of firearms and ammunition to be sold to the public;

(c) Submit business register information, taxpayer number (NIT) and tax registration number;

(d) Submit a notarized statement that the information is true and accurate. Any change in the information given must be promptly reported. In the case of legal entities, this statement shall be made by their legal representative; and

(e) Submit proof that the legal representative, the individual proprietors or the members of the corporate board of directors do not have criminal or police records.

Article 17. — In addition to the requirements set out in the preceding article, legal entities shall submit a certified photocopy of the company's charter and accreditation of its current representative(s).

Article 19. — In order to purchase firearms at an establishment authorized to sell them, a person must show his license to use firearms. Upon receipt of this document, the seller shall give the buyer a registration application. The seller shall submit the

completed application, together with any required documents, to the Office of Arms Registry in the Directorate of Logistics within the Ministry of National Defence.

The Office shall inform the commercial establishment, not more than five business days after receipt of the documents, whether the application has been approved or denied. If authorization is given, the weapon can be delivered to the buyer and the procedures for the sale can be finalized.

It is the seller's obligation to issue the invoice or tax credit voucher.

Article 30. — Those persons wishing to register collectors' weapons must submit a written request to the Ministry of National Defence and comply with the requirements and formalities set out for registering other firearms.

To grant the respective permit, the Ministry of National Defence shall inspect such collectors' weapons to ensure that they fall within a category established in this Act.

23. **Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?**

Firearms are neither manufactured nor assembled in El Salvador, and only ammunition normally used at firing ranges is reloaded.

VI. Assistance and conclusion

24. **Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.**

The competent authorities of El Salvador are willing to share their know-how in combating terrorism, based on mock drills inside the country, particularly since 11 September 2001.

25. **Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.**

The thematic areas which would benefit from technical cooperation are:

- Immigration Services and travel documents, interviews, profiles, interrogations and investigation;
- Assistance in preventing computer network sabotage and attacks on, inter alia, computerized immigration and passport systems;
- Airport and land border security;
- Link between drug trafficking and terrorism;
- Arms trafficking; and
- Money-laundering.